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9 FEDERAL TRADE COMMISSION

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12
13 FEDERAL TRADE COMMISSION,
Plaintiff,

Case No. 09-CV-03554 MMM
(PJWx)

14 v.

15 DINAMICA FINANCIERA LLC,
16 a California limited liability company;

FIRST AMENDED COMPLAINT
FOR PERMANENT INJUNCTIVE
AND OTHER EQUITABLE
RELIEF

17 SOLUCIONES DINAMICAS, INC.,
a California corporation;

18 OFICINAS LEGALES DE ERIC-
19 DOUGLAS JOHNSON, INC.,
a California corporation;

20 ERIC DOUGLAS JOHNSON,
21 an individual;

22 VALENTIN BENITEZ,
an individual;

23 JOSE MARIO ESQUER,
24 an individual; and

25 ROSA ESQUER,
an individual

26 Defendants.
27
28

1 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its
2 complaint alleges:

3 1. The FTC brings this action against Defendants Dinamica Financiera
4 LLC, Soluciones Dinamicas, Inc., Oficinas Legales de Eric-Douglas Johnson, Inc.,
5 Jose Mario Esquer, Valentin Benitez, and Eric Douglas Johnson (collectively, the
6 “Defendants”) under Section 13(b) of the Federal Trade Commission Act (“FTC
7 Act”), 15 U.S.C. § 53(b) to obtain preliminary and permanent injunctive relief,
8 rescission or reformation of contracts, restitution, disgorgement of ill-gotten gains,
9 and other equitable relief against Defendants for engaging in deceptive acts or
10 practices in connection with the advertising, marketing, offering for sale, and sale
11 of mortgage foreclosure rescue services in violation of Section 5(a) of the FTC
12 Act, 15 U.S.C. § 45(a).

13 2. The FTC brings this action against Defendant Rosa Esquer (the
14 “Fraudulent Transfer Defendant”) under the Federal Debt Collection Procedure
15 Act, 28 U.S.C. §§ 3001 *et seq.*, to avoid the fraudulent transfer of real property
16 from Defendant Jose Mario Esquer to the Fraudulent Transfer Defendant. The
17 avoidance of this transfer is necessary in the interests of justice to secure funds for
18 redress or disgorgement.

19 JURISDICTION AND VENUE

20 3. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §§
21 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a), 1345, and §§ 3001 *et seq.*

22 4. Venue in the United States District Court for the Central District of
23 California is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

24 PLAINTIFF

25 5. Plaintiff **FTC** is an independent agency of the United States
26 Government created by statute. 15 U.S.C. §§ 41-58, as amended. The
27 Commission is charged with, *inter alia*, enforcement of Section 5(a) of the FTC
28 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or

1 affecting commerce. The Commission is authorized to initiate federal district court
2 proceedings, by its own attorneys, to enjoin violations of the FTC Act, and to
3 secure such equitable relief, including restitution for injured consumers and the
4 disgorgement of ill-gotten gains, as may be appropriate in each case. 15 U.S.C. §
5 53(b).

6 DEFENDANTS

7 6. Defendant **Dinamica Financiera LLC** (“Dinamica”) is a California
8 limited liability company that has used the addresses 7857 East Florence Avenue,
9 Suite 201, Downey, CA 90240 and 9550 Firestone Blvd, Suite 201, Downey, CA
10 90241. Dinamica was formed in August 2000 and operated until at least May
11 2008, when it transferred its business operations to Soluciones Dinamicas, Inc.
12 Dinamica transacts or has transacted business in the Central District of California.

13 7. Defendant **Soluciones Dinamicas, Inc.** (“Soluciones”) is a California
14 corporation with its principal place of business at 9550 Firestone Blvd, Suite 201,
15 Downey, CA 90241. Soluciones operated from May 2008 until approximately
16 April or May 2009, when it transferred its business operations to Oficinas Legales
17 de Eric-Douglas Johnson, Inc. Soluciones transacts or has transacted business in
18 the Central District of California.

19 8. Defendant **Oficinas Legales de Eric-Douglas Johnson, Inc.**
20 (“Oficinas”) is a California corporation with its principal place of business at 9550
21 Firestone Blvd., Suites 101-102, Downey, CA 90241. Oficinas also operates from
22 9550 Firestone Blvd., Suite 201, Downey, CA 90241. Oficinas assumed the
23 operations of Dinamica and Soluciones in April or May 2009. Oficinas transacts
24 or has transacted business in the Central District of California. Oficinas has also
25 done business as “Dinamica Legal.”

26 9. Defendant **Jose Mario Esquer** (“Esquer”), an individual, is the
27 founding member and supervisor of Dinamica, is a manager of Soluciones, and is
28 an employee of Oficinas. Esquer, acting alone or in concert with others, has

1 formulated, directed, controlled, or participated in the acts and practices of
2 Dinamica and Soluciones, including the acts and practices set forth in this
3 Complaint. Esquer transacts or has transacted business in the Central District of
4 California.

5 10. Defendant **Valentin Benitez** (“Benitez”), an individual, is a member
6 and manager of Dinamica, is a manager and supervisor of Soluciones, and is an
7 employee of Oficinas. Benitez, acting alone or in concert with others, has
8 formulated, directed, controlled, or participated in the acts and practices of
9 Dinamica, Soluciones, and Oficinas, including the acts and practices set forth in
10 this Complaint. Benitez transacts or has transacted business in the Central District
11 of California.

12 11. Defendant **Eric Douglas Johnson** (“Johnson”), an individual, is the
13 President of Oficinas. Johnson, acting alone or in concert with others, has
14 formulated, directed, controlled, or participated in the acts and practices of Oficinas,
15 including the acts and practices set forth in this Complaint. Johnson transacts or
16 has transacted business in the Central District of California.

17 **FRAUDULENT TRANSFER DEFENDANT**

18 12. Fraudulent Transfer Defendant **Rosa Esquer** is the wife of Defendant
19 Jose Mario Esquer. She is the owner of real property located in South Gate,
20 California. Fraudulent Transfer Defendant Rosa Esquer received real property
21 located in South Gate, California from Defendant Jose Mario Esquer. She resides
22 in the Central District of California.

23 **COMMERCE**

24 13. The acts and practices of Defendants, as alleged in this Complaint, are
25 in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act,
26 15 U.S.C. § 44.

27 ///

1 **DEFENDANTS' UNLAWFUL BUSINESS PRACTICES**

2 14. Defendants have advertised, marketed, offered for sale, and sold
3 mortgage foreclosure rescue services.

4 15. Defendants have advertised and marketed their services by various
5 means, including via Spanish-language radio and magazine advertisements.

6 16. In their advertisements, Defendants offer to protect consumers'
7 homes. One of Dinamica's radio advertisements (translated from Spanish into
8 English) states:

9 Are you in arrears with your house payments? If you got
10 behind and need some time to continue making the
11 payments, we will negotiate your delay so you can
12 continue making your payments or a new one next month,
13 or six months from now. To buy your house was a wise
14 decision, so do not lose it for lack of information. Keep
15 it! Today you have the opportunity to decide what is best
16 for your family. Decide today before your bank or the
17 collection company decide for you. Your peace of mind
18 and that of your family are most important.

19 Call today: 1-888-350-3344. Write it down:
20 1-888-350-3344. 1-888-350-3344. Dinámica Financiera,
21 an option for each situation. Experience and
22 professionalism assure your peace of mind. Call today:
23 1-888-350-3344. Write it down: 1-888-350-3344.

24 One of Soluciones' radio advertisements (translated from Spanish into English)
25 states:

26 Are you late on your house payment? Is the increase in
27 gasoline taking money away from you being able to make
28 your payments? Has the value of your house dropped so
much you don't know what to do? Relax. Your house is
very important. But your tranquility and that of your
family is more important. If for any reason you've gotten
behind and you need time to continue your payments, we
will negotiate your delay in order for you to continue with
your payments or make a single reduced payment. And
up to six months from today. We will look for the best
option your bank or collections company can offer you.
Thousands have already qualified to reduce their
payment. Call today! 1-888-350-3344. Write it down!
1-888-350-3344. 1-888-350-3344. 1-888-350-3344.
Soluciones Dinámicas. An option for each situation.
Experience and professionalism guarantee your
tranquility.

1 One of Dinamica’s magazine advertisements (translated from Spanish into
2 English) states:

3 Behind on your house payments?
4 We can help, call today
5 Consultation without commitment

6 Dinamica Financiera, LLC
7 “A solution to every situation”

8 Call free
9 1-888-350-3344
10 562-923-6408

11 One of Oficina’s radio advertisements states, in part:

12 1-888-350-3344

13 . . . all your expenses you can’t pay? Don’t worry any
14 longer. Your tranquility is your family’s tranquility. Call
15 right now for an evaluation of your case. Perhaps you
16 qualify for bankruptcy. Protect your house, your car, your
17 salary. Call and find a ray of sunshine of hope in these
18 troubled times with a dynamic legal. Legal office. . . .

19 1-888-350-3344. Experience makes the difference.
20 1-888-350-3344

21 17. Consumers who call Defendants’ phone numbers are typically
22 advised to come into Defendants’ office for a consultation.

23 18. During in-person sales consultations, Defendants promise to save
24 consumers’ homes from foreclosure.

25 19. During in-person consultations, Defendants promise to obtain
26 mortgage loan modifications, typically resulting in reduced mortgage payments.

27 20. Defendants charge consumers an up-front fee equivalent to each
28 consumer’s monthly mortgage payment for their services. These payments are
typically in the thousands of dollars.

21 21. Consumers have paid Defendants at least \$3.3 million for their
22 services.

23 22. In numerous instances, foreclosure proceedings are initiated against
24 consumers’ homes after consumers hire Defendants.

1 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

2 29. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or
3 deceptive acts and practices in or affecting commerce.

4 30. Misrepresentations or omissions of material fact constitute deceptive
5 acts or practices pursuant to Section 5(a) of the FTC Act.

6 **Count 1**

7 31. In numerous instances, Defendants have represented to consumers,
8 expressly or by implication, that Defendants will obtain a mortgage loan
9 modification or stop foreclosure in all or virtually all instances.

10 32. In truth and in fact, Defendants do not obtain a mortgage loan
11 modification or stop foreclosure in all or virtually all instances.

12 33. Therefore, Defendants’ representations as set forth in Paragraph 31
13 are false and misleading and constitute deceptive acts or practices in violation of
14 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

15 **VIOLATIONS OF THE FEDERAL DEBT**

16 **COLLECTION PROCEDURE ACT**

17 **Count 2**

18 34. Defendant Jose Mario Esquer transferred real property to Fraudulent
19 Transfer Defendant Rosa Esquer.

20 35. This transfer was made:

21 a. with actual intent to hinder, delay, or defraud a creditor, in
22 violation of Section § 3304(b)(1)(A) of the Federal Debt Collection
23 Procedure Act (“FDCPA”); or

24 b. without receiving a reasonably equivalent value in exchange
25 for this transfer and (i) Jose Mario Esquer was engaged or was about to
26 engage in a business or a transaction for which his remaining assets were
27 unreasonably small in relation to the business or transaction; or (ii) Jose
28 Mario Esquer intended to incur, or believed or reasonably should have

1 believed that he would incur, debts beyond his ability to pay as they became
2 due, in violation of Section § 3304(b)(1)(B) of the FDCPA.

3 **CONSUMER INJURY**

4 36. Consumers have suffered and continue to suffer substantial monetary
5 loss as a result of Defendants' unlawful acts or practices. In addition, Defendants
6 have been unjustly enriched as a result of the unlawful practices set forth in this
7 Complaint. Absent injunctive relief from this Court, Defendants are likely to
8 continue to injure consumers and harm the public interest.

9 **THIS COURT'S POWER TO GRANT RELIEF**

10 37. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this
11 Court to grant injunctive and such other relief as the Court may deem appropriate
12 to halt and redress violations of the FTC Act. The Court, in the exercise of its
13 equitable jurisdiction, may award other ancillary relief, including, but not limited
14 to, rescission of contracts and restitution, and the disgorgement of ill-gotten gains,
15 to prevent and remedy injury caused by Defendants' law violations.

16 38. The FDCPA authorizes this Court to set aside fraudulent transfers,
17 grant remedies against the assets transferred or other property of the transferee, or
18 grant any other relief the circumstances may require. 28 U.S.C. § 3306(a).

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff Federal Trade Commission, pursuant to
21 Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), the FDCPA, 28 U.S.C. §§ 3001-
22 3308, and the Court's own equitable powers, requests that the Court:

- 23 1. Award Plaintiff such preliminary injunctive and ancillary relief as
24 may be necessary to avert the likelihood of consumer injury during the pendency
25 of this action, and to preserve the possibility of effective final relief;
- 26 2. Permanently enjoin Defendants from violating the FTC Act as alleged
27 herein;
- 28 3. Award such relief as the Court finds necessary to redress injury to

1 consumers resulting from the Defendants' violations of the FTC Act, including,
2 but not limited to, rescission or reformation of contracts, the refund of monies
3 paid, and the disgorgement of ill-gotten gains;

4 4. Award such relief against Fraudulent Transfer Defendant Rosa Esquer
5 as the Court finds necessary to secure funds for final relief, including an order
6 setting aside the transfer of real property to the Fraudulent Transfer Defendant;
7 and

8 5. Award Plaintiff the costs of bringing this action, as well as such other
9 and additional equitable relief as the Court may determine to be just and proper.

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11 Dated: November 23, 2009

Respectfully Submitted,

12 Willard K. Tom
13 General Counsel

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